IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

WP(C).No. 7222 of 2007(I)

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CC.1890/2004 of J.M.F.C.-II, KOCHI

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PETITIONER: ACCUSED

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SINDHURAJ, FIREMAN,
FIRE STATION, COCHIN PORT TRUST,
WILLINGDON ISLAND RESIDING AT
ANAMUTTIL HOUSE, EDA KOCHI, COCHIN-6.

BY ADV. SRI.NIDHI BALACHANDRAN
SRI.T.A.GEORGE JOSEPH
SRI.A.P.SHERI

RESPONDENTS: COMPLAINANTS

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1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. JOSEPH ANTONY, PULIPARAMBIL HOUSE,
BIVERA ROAD, THOPPUMPADY, KOCHI-5.

R1 BY GOVT. PLEADER SRI. GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**R. BASANT, J.**

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W.P.C.No. 7222 of 2007 I

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Dated this the 28th day of May, 2007

**JUDGMENT**

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the N.I. Act. The sentence is ripe for execution now. The grievance of the petitioner is that he has not been furnished with a free copy or certified copy of the judgment passed by the learned Magistrate. He is therefore not able to challenge the verdict of guilty, conviction and sentence. He apprehends that without waiting for furnishing the copy of judgment to him, the sentence may be executed jeopardising his interests.

2. The report of the learned Magistrate was called for. The learned Magistrate reports that it is true that the petitioner has not been furnished with the copy of the judgment. But he explains that it so happened because the file was not traceable. Necessary steps are being taken to locate the file and to bring to book those responsible for such missing of the file. The fact remains that the file has not been traced so far nor has copy been furnished to the petitioner. I am satisfied in these circumstances that this writ petition can be allowed

and appropriate directions can be issued to secure the interests of the petitioner. Directions to that effect have already been issued as interim direction on 5.3.2007.

3. This Writ Petition is, in these circumstances, allowed in part. The learned Magistrate is directed not to take any steps for execution unless a period of 15 days has elapsed from the date on which a free copy or certified copy is delivered or the date notified for delivery of copies to the petitioner.

**(R. BASANT)**
Judge

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